

October 8, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

**REVISED REPORT AND RECOMMENDATION TO THE METROPOLITAN
KING COUNTY COUNCIL**

SUBJECT: Department of Transportation File no. **V-2444**
Proposed Ordinance no. **2003-0180**

EUGENE VEZZETTI & WALTER ANDERSON
Road Vacation Petition

Location: Portion of Southeast 403rd Street, north of the City of Enumclaw

Petitioners: **Eugene Vezzetti**
27303 Southeast 403rd Street
Enumclaw, WA 98022
Telephone: (360) 825-8937

Walter Anderson
40235 – 273rd Avenue Southeast
Enumclaw, WA 98022

Appellant: Susan Martin, *represented by*
Carolyn A. Lake, Attorney
Goodstein Law Group, PLLC
1001 Pacific Avenue, Suite 400
Tacoma, WA 98402
Telephone: (253) 779-4000
Facsimile: (253) 779-4411

King County: Department of Transportation, *represented by*
Dennis Gorley
201 South Jackson Street
Seattle, WA 98104-3856
Telephone: (206) 296-6522
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation, subject to condition
Department's Final:	Approve road vacation
Examiner:	Approve road vacation, subject to conditions

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for item no. V-2444 was received by the Examiner on May 22, 2003.

PUBLIC HEARING:

After reviewing the Department of Transportation's report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2444 was opened by the Examiner at 2:35 p.m. on June 4, 2003, in the Union Bank of California fifth-floor conference room, 900 4th Avenue, Seattle, WA 98164. The hearing was continued on July 10 and October 6, 2003, and administratively continued to November 3, 2003. On remand, the hearing record was reopened on April 29, 2004 for consideration of access easement requirements and closed on October 4, 2004. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of Southeast 403rd Street north of the City of Enumclaw
Right of way classification:	"C"
Area:	Parcel 1 – 5097 sq. ft. Parcel 2 – 4835 sq. ft.
Compensation:	Parcel 1 - \$4, 816.67 Parcel 2 - \$5,735.65

Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this report and recommendation. A proposed access easement appears as Attachment 3.

Proceedings Prior to the Council Appeal

- On October 8, 2001, a petition was filed by Eugene Vezzetti and Walter Anderson to vacate a portion of Southeast 403rd Street lying west of 273rd Avenue Southeast. The proposed vacation area is a 60-foot right-of-way that lies north of the Vezzetti property and south of the Anderson parcel. This right-of-way provides a stub connection to properties lying to the west but has never been publicly opened or constructed. It has been partially constructed, however, with a private easement road that connects northwest to tax parcel 1220069083 owned by Susan Martin.
- This petition has a somewhat convoluted procedural history. It went to hearing on June 4, 2003, accompanied by a provisional staff recommendation from the Road Services Division that the petition should be denied unless the Petitioners agreed to grant an access easement to tax lot 9083. After the Petitioners declined to grant such an easement, the matter was remanded back to

the Road Services Division for further review and a final determination as to the staff recommendation. During this review period, the attorney for Petitioner Anderson submitted to the Division a letter dated September 5, 2003, that described the right of parcel 9083 to the use of a private gravel-surfaced extension of Southeast 403rd Street which connects to the property west from 268th Avenue Southeast. Based on this 1978 easement and Ms. Martin's hearing statement that she also had an easement right across parcel 9088 at her southwest corner, the Division concluded that parcel 9083 had adequate alternative access and the vacation petition should be granted.

4. A September 11, 2003, letter from Paulette Norman, acting County road engineer, summarizes the Division's current position:

“The validated information provided concludes that there is alternative existing legal access to the Martin property and that proceeding with the vacation of Southeast 403rd Street will not result in the land locking of the Martin parcel. The issuance of utility easements across the proposed vacation area protects the utility services to the Martin property that exist within the proposed vacation area.”

Ms. Martin has continued to oppose granting the vacation unless an access easement over the vacation area is provided by the Petitioners, but she has not contested the Division's conclusion that an alternative legal access to her property exists.

5. Ms. Martin is also a former owner of tax lot 0440 now owned by the Andersons. In August 1994, after the sale of this property to Craig and Robin Deahl, Ms. Martin received back from the Deahls an easement 30 feet in width running along the west side of the lot adjacent to the boundary of tax lot 9083. The description of the easement area states that the easement “shall also include the existing access road as constructed as of the date of this easement, including any portion lying to the east of the above-described west 30 feet and connecting said west 30 feet with 403rd as platted.” The proposed vacation area, as noted previously, contains part of this easement road, but the vacation area itself does not directly abut parcel 9083. Rather, the northern edge of the Southeast 403rd Street right-of-way lies approximately 60 feet south of the southeast corner of parcel 9083.
6. There is no question that obtaining access to the mobile home as it is presently sited on parcel 9083 is less convenient from the west via the private gravel road to 268th Avenue Southeast than it is by the easement driveway east to 273rd Avenue Southeast within the New Horizons plat. The distance from 268th Avenue Southeast via gravel road to the southwest corner of parcel 9083 is approximately 750 feet, with perhaps another 500 feet to be traversed through parcel 9083 itself to reach the single-wide mobile home rental unit located near its eastern boundary. By comparison, the mobile home is only about 350 feet via the easement driveway from 273rd Avenue Southeast. Further, while the private road portion of Southeast 403rd Street between 268th Avenue Southeast and the southwest corner of parcel 9083 is relatively flat, the portion of the gravel drive on Ms. Martin's property climbs at a moderately steep grade.
7. The portion of Ms. Martin's easement driveway which lies within the proposed vacation area was constructed under authority of a County right-of-way use permit issued in November 1990, renewed in November 1991, and finally inspected on March 27, 1992. Ms. Martin's uncontroverted testimony was that she spent approximately \$15,000 developing the lot 9083 access to 273rd Avenue Southeast. The existence of the easement access driveway enabled her

to get building permit approval for her rental mobile home without installing a sprinkler system based on the unit's proximity to a fire hydrant within the New Horizons development. She believes that the fire approval for her mobile home may be jeopardized by the vacation because the nearest hydrant to the west is about ½ mile away. Ms. Martin's mobile home is also served from the east by utilities located within the access easement, and mail service to the property is received there as well. As depicted in the exhibit no. 23 photographs, the driveway within the vacation area is approximately an 8 to 10 feet wide and gravel surfaced.

8. The New Horizons plat is an island of upscale suburban development located on an elevated knoll surrounded by traditional rural properties. The enactment of growth management legislation has made this subdivision an anomaly to the extent that it is now surrounded by RA-zoned properties at a minimum density of five acres. There are no parcels larger than five acres lying west of the proposed vacation area stub, and therefore no prospect exists under current zoning that any of these parcels could be redeveloped at a higher density. The western boundary of the proposed vacation area abuts tax lot 9084, and if extended westward toward the Southeast 403rd Street private roadway off 268th Avenue Southeast, would pass within a few feet of the northern edge of a large newer residence on parcel 9084 and obliterate its front yard and driveway. In short, no useful purpose, public or private, would be served by future development of the vacation area and its further extension westward toward 268th Avenue Southeast.

Council Appeal and Remand

9. On November 10, 2003 the Hearing Examiner issued a report and recommendation to the County Council that proposed approval of the vacation as requested. The report discussed the inconvenience to Ms. Martin resulting from the vacation but concluded that she possessed a legally adequate alternative access to the west. The Examiner's recommended decision was appealed to the County Council, and at the March 29, 2004 appeal hearing Councilmember McKenna introduced the following motion:

“In order to avoid a special injury to Martins, I move to remand to the hearing examiner to prepare a decision granting the requested vacation subject to a condition that the Vezzettis and Andersons grant a limited easement for the benefit of the Martin parcel. This easement shall require the installation of a gate or gates and include any other provisions necessary to limit the easement's use to access the Martin parcel through the New Horizons subdivision.”

10. The motion to remand the petition back to the Hearing Examiner was approved, and on April 6, 2004 the Examiner issued a notice of reopened hearing and scheduled a meeting with the parties for April 29, 2004. The following list summarizes the major dates and events that transpired in the attempt to negotiate among the parties an easement agreement consistent with the Council's remand motion:
 - April 29, 2004 – Hearing record was reopened. The Petitioners and Ms. Martin reached conceptual agreement for the construction of locked gates at either end of the easement road but disagreed as to easement width.
 - May 10, 2004 – Hearing Examiner issued a notice of proposed easement review procedure. The proposal envisioned an easement agreement among the parties for a 20 foot wide easement with a 10 foot gravel road, locked gates at either end of the easement, and keys to be distributed to the easement parties.

- May 26, 2004 – Letter received from Attorney Carolyn Lake on behalf of Ms. Martin raising issues regarding easement width based on fire turning radius requirements.
- June 24, 2004 – Hearing Examiner letter mailed to the parties stating his understanding of the easement width issue:

“The main point of contention appears to be over the width of the easement to be conveyed to Ms. Martin. I have proposed (and the petitioners have agreed to) a 20 foot width consistent with the requirements for joint use driveway stated at King County Road Standards section 3.01, while Ms. Lake and Mr. Huff have argued for a 30 foot width based on fire access requirements for future residential construction. It is my understanding that the County Council in remanding the petition back to the Hearing Examiner intended primarily to protect Ms. Martin’s investment in her current access driveway to the mobile home rental unit, not to guarantee compliance with permitting requirements for all potential future development of the property.”

The June 24, 2004 letter also proposed that the attorney for the Andersons, Mr. Dickson, draft a proposed easement agreement for circulation among the parties.

- July 30, 2004 – Mr. Dickson submitted to the Examiner and the parties a proposed easement draft.
- August 27, 2004 – Attorney Lake responded to the easement draft on behalf of Ms. Martin. Easement width continued to be an issue with Ms. Lake arguing for a minimum 25 foot easement width and a 16 foot wide road bed, arguing that such width is required by codes and that “Ms. Martin will need the full standard width when she removes her 14 foot wide mobile home”.
- September 2, 2004 – Hearing Examiner circulated a revised easement agreement draft retaining the 20 foot easement width but providing for the temporary disassembly of the eastern terminus easement gate to accommodate mobile home removal.
- September 17, 2004 – Ms. Lake responded to the Examiner’s revised easement agreement draft maintaining the need for an easement width of at least 25 feet and rescinding prior agreements on gate construction and locking and for a second gate at the eastern easement terminus.
- September 24, 2004 – Hearing Examiner letter sent to the parties concluded that a negotiated agreement on the easement appeared to be unattainable and suggested that the Andersons and the Vezzettis execute the easement draft largely as proposed for submittal to the County Council in support of a revised recommendation. The September 24, 2004 letter also noted that in the absence of a new survey the provision of an adequate legal description for the easement area remained problematic.
- September 28, 2004 – Hearing Examiner circulated to the parties a final revision to the easement agreement draft that incorporates reference to existing survey stakes.
- October 4, 2004 – Petitioners Anderson and Vezzetti forwarded to the Hearing Examiner a signed and notarized copy of the September 28, 2004 easement agreement draft.

11. The design requirements for constructing a private driveway to serve a single residential parcel are stated at Section 3.01 of the King County Road Standards and the descriptive drawings cited therein. Section 3.01 C, entitled “Location and width of new driveways”, refers to drawing no. 3-006. This drawing contains the following notation: “Driveway width residential 10 feet min., 20 feet max.” Similar notations can be found on drawings 3-003, 3-004 and 3-005. Nearly identical requirements appear within the 1987 Road Standards as well. Based on a 10-foot wide driving surface within a 20-foot easement, the proposed driveway easement across the road vacation area is consistent with the King County Road Standards as they currently exist and as they existed in 1990-92 when the driveway in question was constructed.
12. Ms. Martin’s insistence on an easement width greater than the maximum driveway width provided by the Road Standards appears to be predicated upon DDES Bulletin No. 39, “Private Residential Fire Sprinkler Systems”. Under the heading of “Fire Access Road Requirements” this bulletin states that “all residential structures can be no more than 150 feet walking distance (with no obstructions or barriers) to all exterior walls from an approved fire apparatus road/fire lane. A fire apparatus road/fire lane can be a driveway, easement, public or private road.” The bulletin further defines a fire apparatus access road/fire lane as “a 20-foot wide unobstructed permanent all-weather driving surface with 25-ton loading capability” and as “having a minimum of 20-foot inside turning radius and 40-foot outside turning radius at all bends and turns.” The bulletin also states that a fire lane/access road over 150 feet in length is required to have a circular 80 foot diameter turn-around.
13. It is Ms. Martin’s contention that in order to construct a new residence on her property with access to 273rd Avenue Southeast the easement driveway across the vacation area would need to be upgraded to fire access road standards and that the turning radius requirements would necessitate an easement width within the vacation area greater than 20 feet. While Bulletin 39 allows driveways to serve as fire access roads, it is clear that a requirement for a 20 foot wide unobstructed permanent all-weather driving surface functionally calls for the creation of a street. In the absence of an actual survey of the proposed easement, it cannot be determined whether or to what extent the curved portion of the driveway within the vacation area would require a greater easement width than 20 feet for a turning radius in order to meet fire access road turning radius requirements.
14. The fundamental question raised by Ms. Martin is whether the County Council within its remand motion intended to create an easement that preserved Ms. Martin’s present 8 to 10 foot wide gravel driveway or instead whether the Council’s intent was to require an easement that would accommodate fire access requirements for future construction of Ms. Martin’s parcel. It was the Examiner’s understanding of the Council’s intent that Ms. Martin’s existing driveway access should be preserved as a condition of the road vacation. Since the Martin parcel does in fact also have a viable access to the west, imposition of an easement requirement that accommodates all new construction scenarios not only goes far beyond the mere preservation of Ms. Martin’s current use of the driveway but cannot be supported by a finding of necessity. Moreover, such an expansive interpretation would render the vacation worthless to the Petitioners. The Examiner’s recommendation is therefore premised on preserving to Ms. Martin the type and extent of driveway access that she currently possesses, not to expand that access to include future construction of the functional equivalent of a minor access street.

CONCLUSIONS:

1. As provided at RCW 36.87.060(1) a county road shall be vacated “if it is not useful and the public will be benefited by the vacation.” That the vacation of the Southeast 403rd Street road stub subject to this petition involves a section of right-of-way that is useless to the County road system is abundantly supported by the record. Given existing zoning and development patterns, there is no future possibility that this right-of-way would ever be publicly opened and constructed. The public benefit to be derived from the vacation is the return of the subject property to the tax rolls and the elimination of a possible nuisance cut-through traffic route on private residential properties. The only question remaining is whether the inconvenience that the vacation will cause to Ms. Martin warrants conditioning or denying the petition.
2. If a proposed vacation area is no longer useful as part of the County road system, Washington case law holds that inconvenience to a non-abutting property owner is not a basis to deny the petition. *Hoskins v. Kirkland*, 7 Wn. App. 957 (1972) summarizes the applicable principles:

“The power to vacate a public street exists notwithstanding some inconvenience will follow to others who are thereby deprived of street access they would otherwise have had. . . . It is only the landowner whose property abuts upon a street vacated or proposed to be vacated, or the non-abutting landowner who suffers special injury that may complain of illegality. . . . In Washington, at least in the absence of overriding public benefit, a landowner whose land becomes landlocked or whose access is substantially impaired as a result of a street vacation is said to have sustained special injury [citations omitted]. If, however, the landowner still retains an alternate mode of egress from or ingress to his land, even if less convenient, generally speaking he is not deemed specially damaged.

He has no legal right to prevent the vacation because no legal right of his has been invaded.” (7 Wn. App. at pp. 960, 961.)
3. Ms. Martin possesses a legally available and physically constructed alternative access from her property west to 268th Avenue Southeast via the Southeast 403rd Street private road. Her property does not abut the proposed vacation area. A distance of at least 50 feet exists between the southeast corner of parcel 9083 and the northern boundary of the proposed vacation area. Parcel 9083 possesses an access easement right across the Anderson property to the vacation area, but an easement right does not create an abutting ownership interest.
4. The inconvenience of the westerly access to parcel 9083 is not significantly greater than that obtained to the east via the access easement through the proposed vacation area. Southeast 403rd Street between 268th Avenue Southeast and the southwest corner of parcel 9083 is relatively flat and easily passable. The portion of the route that is steeper and more circuitous lies on parcel 9083 itself, and its adequacy or lack of it is entirely within Ms. Martin’s control. The mobile home’s utility connections will not be jeopardized by the vacation, so the immediate consequences resulting from the vacation would be slightly greater travel distance, the need to relocate the mail box and the possibility that the mobile home’s fire system may need to be upgraded.
5. On appeal, the Metropolitan King County Council determined that in order to avoid injury to Ms. Martin resulting from the above recited circumstances the road vacation should be approved subject to a condition that the Petitioners grant a limited easement for access to the Martin

parcel. The Vezzettis and Andersons have executed a conveyance for a 10 foot wide gravel surface driveway within a 20 foot access easement tract to serve the Martin parcel. According to its terms, the continued validity of the easement is made contingent upon Ms. Martin constructing a locked steel gate across the easement driveway at her eastern property boundary. The agreement also allows the Petitioners to construct a second gate at the eastern terminus of the easement tract. As of the date of this report, Ms. Martin had not signed the easement agreement.

6. The conditions attached to this report provide that, if Ms. Martin does not execute the easement agreement within 45 days of the effective date of the ordinance approving the road vacation, the requirement for the access easement shall lapse and the vacation shall be granted to the Petitioners free and clear of any encumbrance. It also remains the Examiner's opinion that the clarity of the easement description would be significantly improved if it were supported by a survey demarking the easement area. But since Ms. Martin has yet to agree to the easement, a requirement that the Petitioners perform a survey as a condition of vacation approval would be unduly burdensome. If Ms. Martin ultimately consents to the easement as proposed, nothing would prevent the parties from also agreeing to performance of a supporting survey for the easement area.
7. The notice of hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County and the easements necessary for the construction, repair and maintenance of public utilities and services have been provided in a form satisfactory to the affected utilities.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2003-0180 to vacate the subject road, subject to the following conditions:

1. The vacation approval conferred herein is granted subject to a 20 foot access easement to be created for the benefit of tax parcel 1220069083 by the petitioners pursuant to the attached conveyance dated September 30, 2004; provided that, such easement shall not become valid and effective unless the owner of tax parcel 1220069083 (Susan Martin, her successors or assigns) also validly executes said conveyance within 45 days of the effective date of the ordinance granting this road vacation. The easement document signed by the petitioners is currently in the custody of the King County Hearing Examiner. The owner of tax parcel 1220069083 shall contact the Hearing Examiner's Office at least three business days prior to the occurrence of the 45 day deadline to arrange for execution of the easement.
2. Forty-five days after the effective date of the ordinance approving the road vacation, the King County Hearing Examiner, or his designee, shall notify the petitioners, Ms. Martin, the King County Department of Transportation and the Clerk of the County Council whether the contingency stated in condition no. 1 above has been satisfied. If the owner of tax parcel 1220069083 has not validly executed the easement within the 45 day period provided by these conditions, the requirement for an easement conveyance by the petitioners stated above shall be deleted from this road vacation approval, the vacation shall be deemed approved unconditionally, and the September 30, 2004 easement document shall be returned to the petitioners. Conversely, if the owner of tax parcel 1220069083 validly executes the easement within the time allotted, the

- Hearing Examiner shall record the easement, notify the parties and individuals listed above of such action, and the easement shall become effective according to its terms.
3. Nothing herein shall preclude the petitioners and Ms. Martin from negotiating new or different easement terms within the 45 day period provided in condition no. 1 above, including an agreement to perform a survey of the easement tract; provided that, the petitioners and Ms. Martin shall submit to the Clerk of the County Council within said 45 day period a notarized statement affirming that all parties have agreed to and executed a substitute easement.

RECOMMENDED this 8th day of October, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 8th day of October, 2004, to the following parties and interested persons:

Anne Noris	Carolyn A. Lake	Charlie Sundberg
Curt Crawford	Darren Carnell	David Gualtieri
Denise Hauck	Dennis Gorley	Don Dauphiny
Eugene Vezzetti	Gary Samek	Kevin Wright
Lydia Reynolds-Jones	Mary Lamping	Nancy Gordon
Neil DeGoojer	Neil Huff	Norm Ragan
Pam Elardo	Paulette Norman	Robert Nunnenkamp
Roderick E. Matsuno	Susan Martin	Terry Davis
Thomas L. Dickson	Walter Anderson	

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before* **October 22, 2004**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before* **October 29, 2004**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JUNE 4, JULY 10, and AUGUST 6, 2003 PUBLIC HEARING ON
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2444

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Jodi Simmons and Dennis Gorley representing the Department; Thomas Dickson, Cindy Johnson, and Walter Anderson, representing Petitioner Anderson; Petitioner Eugene Vezzetti; and Neil Huff, Karen Fishburn and Susan Martin.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DOT Report to the Hearing Examiner dated June 4, 2003 with 15 attachments
- Exhibit No. 2 10/08/01 petition transmittal letter to the Department of Transportation from the Clerk of Council
- Exhibit No. 3 Original signed petition received and map of vacation area
- Exhibit No. 4 Copy of Filing Fee – Check #460 from Eugene C. Vezzetti
- Exhibit No. 5 01/14/02 letter to petitioner explaining process and identifying error in legal description
- Exhibit No. 6 Corrected legal and Petition for Vacation of a County Road received from petitioners on 01/22/02
- Exhibit No. 7 Vicinity Map
- Exhibit No. 8 Map depicting vacation area
- Exhibit No. 9 12/09/02 letter to petitioners identifying DOT recommendation and requesting compensation (compensation worksheet attached)
- Exhibit No. 10 12/13/02 transmittal letter to Council providing recommendation of KCDOT and County Road Engineer
- Exhibit No. 11 Copy of compensation checks (nos. 5571 and 587) from Anderson and Vezzetti
- Exhibit No. 12 Ordinance transmittal letter 04/14/2003 from King County Executive to Council Chair Cynthia Sullivan
- Exhibit No. 13 Proposed Ordinance 2003-0180
- Exhibit No. 14 Notice of hearing from the Council Clerk
- Exhibit No. 15 Affidavit of May 1, 2003, posting for hearing
- Exhibit No. 16 Affidavit of Publication for date of hearing (*to be submitted post-hearing upon receipt*)
- Exhibit No. 17 5/29/03 letter from DOT to petitioners amending original recommendation
- Exhibit No. 18 Easement #9408251094 across Anderson property
- Exhibit No. 19 Right-of-way Use Permit S90R0090 – Final Construction Approval
- Exhibit No. 20 5/30/03 request for continuance of the hearing from Petitioner's attorney
- Exhibit No. 21 2000 aerial view of the site
- Exhibit No. 22 Not submitted
- Exhibit No. 23 Photos of subject area (13) from Eugene Vezzetti
- Exhibit No. 24 Letter and attachments from Susan Martin

The following exhibits were entered into the hearing record at the continued hearing on October 6, 2003:

- Exhibit No. 25 Letter to Dennis Gorley from Thomas L. Dickson dated September 5, 2003
- Exhibit No. 26 Bay Industry, Inc., Appellant v. Jefferson County, ET AL, Respondents
[No. 4957 -1-II. Division Two. November 19, 1982.]

- Exhibit No. 27 Letter to Eugene Vezzetti and Walter Anderson from Paulette Norman, P.E., dated September 11, 2003
- Exhibit No. 28 Letter to Mr. Gorley from Neil P. Huff dated September 30, 2003
- Exhibit No. 29 Microfiche record for file no. S90R0090 (right-of-way permit)
- Exhibit No. 30 King County Fire Marshall Application Receipt received by Building & Land Development on Jan. 6, 1992

The following exhibits were entered into the hearing record pursuant to administrative continuance:

- Exhibit No. 31 Letter with 21 attachments from Carolyn A. Lake, Goodstein Law Group, dated October 20, 2003
- Exhibit No. 32 Letter from Paulette Norman, KC DOT, dated October 24, 2003
- Exhibit No. 33 Letter from Carolyn A. Lake, Goodstein Law Group, dated October 28, 2003
- Exhibit No. 34 Letter from Thomas L. Dickson, Dickson Law Offices, dated November 3, 2003

Documents received or issued by the Hearing Examiner's Office on remand were not formally entered as exhibits. Such documents are, however, part of the hearing record for all official purposes.

SLS:gao
V-2444 RPT2
Attachments